

## **IC 31-27-4**

### **Chapter 4. Regulation of Foster Homes**

#### **IC 31-27-4-1**

##### **License required for operation**

31-27-4-1 Sec. 1. (a) A person may not operate a foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a foster family home without a license issued under this article.

(c) A person may not operate a foster family home if:

- (1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or
- (2) the children are maintained in a building or place not designated by the license.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-2**

##### **Therapeutic foster home; licenses**

31-27-4-2 Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

- (1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.
- (2) Participate in preservice training that includes:
  - (A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
  - (B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best

interests of the foster children residing in the home.

(g) The department shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-3**

#### **Special needs foster home; licenses**

31-27-4-3 Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The department may only issue a license for a special needs foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter, participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training that includes specialized training to meet the child's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

- (1) eight (8) individuals, each of whom either:
  - (A) is less than eighteen (18) years of age; or
  - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable.

(g) The department shall consider the specific needs of each special needs foster child whenever the department determines the appropriate number of children to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children allowed under subsection (f) upon consideration of the specific needs of a special needs foster child.

(h) The department shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-4**

##### **Consultation with fire prevention and building safety commission**

31-27-4-4 Sec. 4. The fire prevention and building safety commission shall provide consultation regarding the licensure of foster family homes to the department upon request.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-5**

##### **Applying for license**

31-27-4-5 Sec. 5. (a) An applicant must apply for a foster family home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) An applicant shall submit the necessary information, forms, or consents for the department to conduct a criminal history check for each individual who is an applicant.

(e) An applicant shall do the following:

(1) Conduct a criminal history check of:

(A) the applicant's:

(i) employees; and

(ii) volunteers;

who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant; and

(B) all household members who are at least fourteen (14) years of age.

(2) Maintain records of each criminal history check.

(f) An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time.

(g) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator

of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-6**

##### **Grounds for denial of license applications**

31-27-4-6 Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, of any of the following:

(A) a felony; or

(B) a misdemeanor related to the health and safety of a child.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not require denial of a license application.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-7**

##### **Incomplete applications**

31-27-4-7 Sec. 7. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-8**

##### **Supervision and care limits**

31-27-4-8 Sec. 8. (a) An applicant may not provide supervision

and care as a foster family home if more than:

(1) eight (8) individuals, each of whom either:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the eight (8) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that the placement of siblings in the same foster family home is desirable.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-9**

##### **Licensing of applicants providing care and supervision to relatives**

31-27-4-9 Sec. 9. (a) An applicant may apply for a foster family home license even if the applicant will be providing care and supervision under an order of a juvenile court to a niece, nephew, sibling, or grandchild.

(b) If an applicant described in subsection (a) otherwise qualifies for a foster family home license, the department may issue a foster family home license to the applicant.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-10**

##### **Investigation of applicants**

31-27-4-10 Sec. 10. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-11**

##### **Issuance of license**

31-27-4-11 Sec. 11. The department shall issue a license to a person who meets all the license requirements when an investigation shows the applicant to be in compliance under this article.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-12**

##### **Eligibility for waivers and variances**

31-27-4-12 Sec. 12. A foster family home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-13**

#### **Denial of license**

31-27-4-13 Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (IC 35-46-1-4(d)).
- (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

The department may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-14**

##### **Delegation of investigations**

31-27-4-14 Sec. 14. (a) The department may delegate the investigation of foster family homes to a licensed child placing agency. The child placing agency is responsible for completing a foster family home licensing study that shows substantial compliance with foster family home rules and is the basis of a recommendation for licensure to the department.

(b) The department shall:

- (1) issue the license; or
- (2) notify the child placing agency if a license is not issued, giving the reasons for the denial.

(c) After licensure the child placing agency shall supervise and monitor the foster family home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.  
*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-15**

##### **Investigation of unlicensed premises**

31-27-4-15 Sec. 15. The department shall investigate any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.  
*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-16**

##### **Duration of license; limitations; renewal**

31-27-4-16 Sec. 16. (a) A license for a foster family home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the department.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the department issues a license or denies the application.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.31.*

#### **IC 31-27-4-17**

##### **Probationary status; duration; expiration; extension**

31-27-4-17 Sec. 17. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the department to correct the

areas of noncompliance within the probationary period; and

(3) the department approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

(1) reactivate the license to the end of the original term of the license;

(2) extend the probationary status period as permitted under subsection (b); or

(3) revoke the license.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.32.*

### **IC 31-27-4-18**

#### **Inspection of foster family homes**

31-27-4-18 Sec. 18. The department may conduct an inspection of a foster family home for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety, treatment, and general well-being of the children protected under this article.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-19**

#### **Records of monitoring activities and inspections**

31-27-4-19 Sec. 19. The department shall keep written records of the department's monitoring activities and onsite inspections.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-20**

#### **Cooperation by licensees**

31-27-4-20 Sec. 20. The licensee shall cooperate with the department in carrying out the activities required by sections 18 through 19 of this chapter, including permitting the department to conduct announced or unannounced inspections.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-21**

#### **Records regarding children**

31-27-4-21 Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the foster family



home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the foster family home.

(5) The parent, guardian, or custodian of the child at the foster family home.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-22**

##### **Notice of enforcement actions; informal meetings**

31-27-4-22 Sec. 22. The department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-23**

##### **Administrative hearings**

31-27-4-23 Sec. 23. (a) An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) calendar days after the licensee receives notice under section 22 of this chapter. The written request must be made separately from an informal meeting request made under section 22 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-24**

##### **Procedure for administrative hearings**

31-27-4-24 Sec. 24. A hearing requested under section 23 of this chapter shall be held in accordance with IC 4-21.5-3.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-25**

##### **Issuance of decisions**

31-27-4-25 Sec. 25. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-26 Repealed**

*(Repealed by P.L.146-2006, SEC.60.)*

#### **IC 31-27-4-27 Repealed**

*(Repealed by P.L.146-2006, SEC.60.)*

**IC 31-27-4-28 Repealed**

*(Repealed by P.L.146-2006, SEC.60.)*

**IC 31-27-4-29**

**Cessation of operation following revocation of license**

31-27-4-29 Sec. 29. A foster family home shall cease operation when the license of the foster family home is revoked.

*As added by P.L.145-2006, SEC.273.*

**IC 31-27-4-30**

**Notice**

31-27-4-30 Sec. 30. (a) After the license of a foster family home is revoked, the department shall notify in writing each person responsible for each child in care, to ensure that the children are removed from the foster family home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the foster family home has been revoked.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.33.*

**IC 31-27-4-31**

**Judicial review**

31-27-4-31 Sec. 31. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.

*As added by P.L.145-2006, SEC.273.*

**IC 31-27-4-32**

**Grounds for revocation of license**

31-27-4-32 Sec. 32. The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, of any of the following:

(A) A felony.

- (B) A misdemeanor related to the health or safety of a child.
- (3) A determination by the department that the licensee made false statements in the licensee's application for licensure.
- (4) A determination by the department that the licensee made false statements in the records required by the department.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-33**

##### **Compliance with rules; disciplinary sanctions; revocation of license**

31-27-4-33 Sec. 33. (a) A licensee shall operate a foster family home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through 25 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a). However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a)(1) through 13(a)(19) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a)(1) through 13(a)(19) of this chapter.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.34.*

#### **IC 31-27-4-34**

##### **Investigation of unlicensed home reports; enforcement**

31-27-4-34 Sec. 34. (a) The department shall investigate a report of an unlicensed foster family home and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the foster family home is located.

(b) The attorney general or the department may do the following:

- (1) Seek the issuance of a search warrant to assist in the investigation.
- (2) File an action for injunctive relief.
- (3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a foster family home is operating without a license required under this article.

(c) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-1-16.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-35**

##### **Notification of sexual contact or sex crime**

31-27-4-35 Sec. 35. (a) A licensee must immediately contact the department if:

- (1) a foster child less than sixteen (16) years of age, while living in a foster home, engages in or is the victim of sexual contact (as defined in IC 25-1-9-3.5);
  - (2) a foster child, while living in a foster home, is:
    - (A) charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult;
    - (B) charged with or convicted of an offense under IC 35-42-4; or
    - (C) the victim of an offense under IC 35-42-4; or
  - (3) the licensee learns that a foster child has, before placement with the licensee, engaged in or been the victim of an act described in subdivision (1) or (2).
- (b) The information provided to the department under subsection (a) must include:
- (1) the name of the child;
  - (2) the date of the occurrence of the act if it can be determined;
  - (3) a description of the act;
  - (4) the name of the responding law enforcement agency if a law enforcement agency is contacted; and
  - (5) any other information the licensee determines is relevant.
- (c) Notwithstanding any other law, the department shall provide information described in subsection (b)(1) through (b)(4), whether received from a licensee or another reliable source, to:
- (1) a prospective licensee before the placement of the foster child with that licensee; and
  - (2) each licensee with whom the foster child has previously been placed.
- (d) The notification requirements of subsection (c) apply to a foster child who has:
- (1) engaged in sexual contact (as defined in IC 25-1-9-3.5) if the foster child is less than sixteen (16) years of age;
  - (2) been charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult; or
  - (3) been charged with or convicted of an offense under IC 35-42-4.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-36**

#### **Violation of chapter**

31-27-4-36 Sec. 36. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

*As added by P.L.145-2006, SEC.273.*